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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904753-4999-01]

RIN 0648-BE34

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Regulatory Amendment to Pacific Coast Groundfish Fisheries Trawl Rationalization Program for the Start of 2015

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This action revises regulations for the Pacific coast groundfish fishery with an implementation date of January 1, 2015. Final implementation of the 2015-2016 biennial harvest specifications and management measures will be delayed beyond January 1, 2015. NMFS has identified two issues that must be addressed prior to January 1, 2015, to prevent interruption of ongoing fisheries and to allow harvest of the total allowable and available groundfish. This action addresses those issues by revising groundfish regulations in two ways. First, this action reinstates a mechanism whereby NMFS can issue interim groundfish allocations at the beginning of the year in years when annual groundfish harvest specifications are not yet finalized, as is the case for January 1, 2015. Second, this action amends regulations to allow NMFS to issue that portion of the allowable catch currently allocated to an Adaptive Management Program (AMP) to quota shareholders until final criteria and a process for distribution of the AMP quota shares is developed and implemented.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) and Regulatory Flexibility certification analysis, categorical exclusion memorandum, and Environmental Assessment (EA) may be obtained from the National Marine Fisheries Service (NMFS) West Coast Regional office in Seattle, at 7600 Sand Point Way Northeast, Seattle, Washington 98115, phone: 206-526-6150.

FOR FURTHER INFORMATION CONTACT: Miako Ushio, phone: 206-526-4644; or e-mail: Miako.Ushio@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region Web site at <http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html> and at the Council's Web site at <http://www.pcouncil.org>.

Background

Biennial specifications for groundfish harvest will not be available by January 1, 2015. This final rule resolves two issues that must be addressed prior to January 1, 2015, to prevent interruption of ongoing fisheries and to allow harvest of the total allowable and available groundfish. First, this action reinstates provisions allowing NMFS to issue Pacific whiting and non-whiting groundfish species quota pounds (QP) to current quota shareholders in the Shorebased Individual Fishing Quota Program based on conservative estimates in years, such as 2015, when harvest specifications of those species are not known by January 1. Second, the 10

percent of non-whiting quota share (QS) reserved for an AMP, that has not yet been established, will continue to be ‘passed through’ to the fishery. This 10 percent will be issued to current QS holders in proportion to their non-whiting QS until implementation of appropriate AMP regulations. NMFS is extending the pro rata pass-through so that the fish authorized for harvest through the biennial specifications process will continue to be available to benefit the fishing industry, dependent communities, and consumers.

This final rule implements the same regulations that were described in detail in the proposed rule that published on October 10, 2014 (79 FR 61272). See the preamble to the proposed rule for additional background information on the fishery and on the regulations implemented in this final rule.

Comments and Responses

The proposed rule for this action published in the Federal Register on October 10, 2014 at 79 FR 61272, with a comment period that closed on November 10, 2014. NMFS received no comments.

Classification

The Administrator, West Coast Region, NMFS, had determined that the regulations allowing NMFS to issue interim allocations and to continue issuance of AMP pounds to quota shareholders in the Shorebased IFQ Program, which this final rule implements, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

NMFS finds good cause to waive part of the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Leaving the 2014 harvest specifications and management measures in place could cause harm to some stocks because those management

measures are not based on the most current scientific information; it could also cause drastic management changes later in the year to prevent exceeding some lower 2015 harvest specifications once they are implemented. Further, it would be contrary to the public interest to delay implementation of the AMP pass-through, because making this regulatory change allows harvest to continue as intended by the Council, consistent with the best scientific information available. Delaying this rule could cause economic harm to fishery participants because inaccurate amounts of QP could be issued pending finalization of the 2015 harvest specifications. This rule does not impose any new requirements or burdens on fishery participants, so there is no need to allow additional time for participants to make gear changes or change their fishing practices. These reasons constitute good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

An Environmental Assessment (EA) was prepared for the pass-through of adaptive management quota pounds portion of this proposed action, and can be found on the NMFS' Groundfish Trawl Catch Share website at www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares. In approving the regulations allowing NMFS to continue issuance of AMP pounds to quota shareholders in the Shorebased IFQ Program, NMFS issued a Finding of No Significant Impact (FONSI) identifying the selected alternatives. A copy of the FONSI is available from NMFS (see ADDRESSES).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory

flexibility analysis was not required and none was prepared.

This rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: December 11, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660 – FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq. and 16 U.S.C. 773 et seq.

2. In § 660.140, revise paragraphs (d)(1)(ii)(A) introductory text, (d)(1)(ii)(A)(1) and (2), (d)(1)(ii)(B)(1) and (2), and paragraph (l)(2) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(A) Non-whiting QP annual sub-allocations. NMFS will issue QP for IFQ species other than Pacific whiting and Pacific halibut annually by multiplying the QS permit owner's QS for each such IFQ species by that year's shorebased trawl allocation for that IFQ species. Deposits to QS accounts for IFQ species other than Pacific whiting and Pacific halibut will be made on or about January 1 each year. Until the implementation of any regulatory changes developed pursuant to the first program review for the trawl rationalization program, the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS.

(1) In years where the groundfish harvest specifications are known by January 1, deposits to QS accounts for IFQ species will be made on or about January 1.

(2) In years where the groundfish harvest specifications are not known by January 1, NMFS will issue QP in two parts. On or about January 1, NMFS will deposit QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for that year. After the final harvest specifications are established later in the year, NMFS will deposit additional QP to the QS account.

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(B) * * *

(1) In years where the Pacific whiting harvest specification is known by January 1, deposits to QS accounts for Pacific whiting will be made on or about January 1.

(2) In years where the Pacific whiting harvest specification is not known by January 1, NMFS will issue Pacific whiting QP in two parts. On or about January 1, NMFS will deposit Pacific whiting QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for Pacific whiting for that year. After the final Pacific whiting harvest specifications are established later in the year, NMFS will deposit additional QP to QS accounts.

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(1) * * *

(2) AMP QP pass through. The 10 percent of non-whiting QS will be reserved for the AMP, but the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS until the implementation of any regulatory changes developed pursuant to the first program review for the trawl rationalization program.

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